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Atty. Dkt. No. 042275-0105

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE



Applicant: Angelika Utecht
Title: Geranium Plant Named 'Fisaqua'
Appl. No.: 10/715,544
Filing Date: November 19, 2003
Examiner: K. Bell
Art Unit: 1661

CLAIM FOR CONVENTION PRIORITY

Commissioner for Patents
PO Box 1450
Alexandria, Virginia 22313-1450

Sir:

The benefit of the filing date of the following prior foreign application filed in the Canadian Plant Breeders' Rights Office on December 23, 2002, is hereby requested, and the right of priority provided in 35 U.S.C. §119 is hereby claimed.

In support of this claim, filed herewith are certified copies from the Canadian Food and Inspection Agency, Plant Breeders' Rights Office:

- CANADIAN PLANT BREEDER'S RIGHTS APPLICATION NO. 02-3401 'Fisaqua' filed December 23, 2002.

Respectfully submitted,

Date April 28, 2004

By Richard Peet

FOLEY & LARDNER
Customer Number: 22428



22428

PATENT TRADEMARK OFFICE

Telephone: (202) 672-5483
Facsimile: (202) 672-5399

Richard C. Peet
Attorney for Applicant
Registration No. 35,792



Plant Breeders' Rights Office
59 Camelot Drive
Ottawa, Ontario
K1A 0Y9
Tel.: (613)225-2342
Fax: (613)228-6629

February 3, 2004

**CERTIFIED COPIES OF DOCUMENTS RELATING
TO THE APPLICATION FOR A GRANT OF PLANT BREEDER'S RIGHTS
FOR THE PELARGONIUM VARIETY, 'Fisaqua'
(previously proposed denomination, 'Fir 335')**

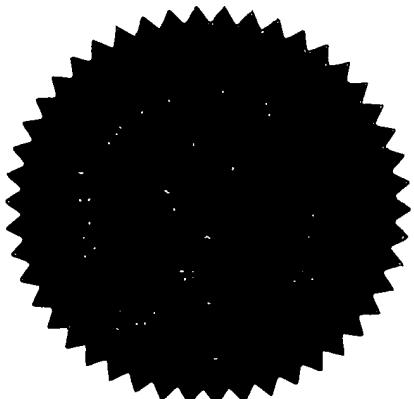
As Commissioner of Plant Breeders' Rights, I hereby certify that the documents set out below are true copies of the documents originally filed in our Office on December 23, 2002 by Florfis AG for the above-mentioned variety.

Application Number: 02-3401
Proposed denomination: 'Fisaqua'
Previously proposed
denomination: 'Fir 335' (changed April 29, 2003)

Valerie Sisson
Valerie Sisson
Commissioner
Plant Breeders' Rights

Att. : Plant Breeders' Rights Application form (3 pages)
Evidence Establishing the Legal Representative (1 page)
Authorization of Agent (1 page)

Canada



PLANT BREEDERS' RIGHTS APPLICATION FORM

(SEE INSTRUCTIONS ON PAGE 3-4)

THE INFORMATION ON THIS DOCUMENT IS REQUIRED BY THE GOVERNMENT OF CANADA FOR THE PURPOSE OF DETERMINING IF A PLANT BREEDERS' RIGHT IS TO BE GRANTED. THE APPLICATION IS HELD CONFIDENTIAL PRIOR TO PUBLICATION OF PARTICULARS IN THE PLANT VARIETIES JOURNAL. SOME INFORMATION MAY BE ACCESSIBLE OR PROTECTED AS REQUIRED UNDER THE PROVISIONS OF THE ACCESS TO INFORMATION ACT. INFORMATION THAT COULD CAUSE YOU OR YOUR ORGANIZATION INJURY IF RELEASED IS PROTECTED FROM DISCLOSURE AS DEFINED IN SECTION 20 OF THE ACCESS TO INFORMATION ACT. APPREFO/01.11.01

APPFORM/01-11-01

1. NAME OF APPLICANT (AS IT IS TO APPEAR ON THE CERTIFICATE) FLORFIS AG		3. PROPOSED DENOMINATION (THE DENOMINATION OR ANY PART OF THE DENOMINATION MUST NOT BE TRADEMARKED IN CANADA) 'Fip 335'
		IS THIS AN EXPERIMENTAL DESIGNATION? <input checked="" type="checkbox"/> 9 YES <input type="checkbox"/> 9 NO
2. ADDRESS OF APPLICANT Parkstrasse 33 CH - 4102 Binningen PHONE NO. (INCLUDE AREA CODE): FAX NO. (IF AVAILABLE):		4. OTHER DESIGNATIONS(S) <input checked="" type="checkbox"/> 9 YES (IF "YES" GIVE DESIGNATION AND COUNTRY OF USE) <input checked="" type="checkbox"/> 9 NO
5. NAME OF AGENT Mr. Eric Voogt, Westcan Greenhouses LTD.		
6. ADDRESS OF AGENT 2527 - 210th Street Langley, British Columbia, V2Z 2A9 PHONE NO. (INCLUDE AREA CODE) 604-530-9298 FAX NO. (IF AVAILABLE) 604-530-9966		
7. NAME AND ADDRESS OF BREEDER, IF DIFFERENT FROM APPLICANT Angelika Utecht PHONE NO. (INCLUDE AREA CODE) FAX NO. (IF AVAILABLE)		
8. GENUS AND SPECIES NAME Pelargonium zonale		9. FAMILY NAME (BOTANICAL) Geraniaceae
10. COMMON NAME Geranium		

11. HAS AN APPLICATION FOR PROTECTION BEEN FILED OUTSIDE OF CANADA?		just submitted:
<input checked="" type="checkbox"/> 9 YES (IF "YES" GIVE NAMES OF COUNTRIES AND DATES)		Germany, Dec. 12?, 2002, file no. not yet known
<input type="checkbox"/> 9 NO		
<hr/>		
12. HAS THE VARIETY BEEN GRANTED RIGHTS IN OTHER COUNTRIES?		
<input checked="" type="checkbox"/> 9 YES (IF "YES" GIVE NAMES OF COUNTRIES AND DATES)		
<input checked="" type="checkbox"/> 9 NO		
<hr/>		
13. IS PRIORITY CLAIMED IN CANADA WITH RESPECT TO AN APPLICATION(S) MADE OUTSIDE OF CANADA? (SEE INSTRUCTIONS)		Priority claimed Germany, Dec. 12, 2002
<input checked="" type="checkbox"/> 9 YES (IF "YES" GIVE NAME OF COUNTRY AND DATE)		
<input checked="" type="checkbox"/> 9 NO		
<hr/>		
14. HAS THE VARIETY BEEN SOLD OUTSIDE OF CANADA?		An application for protection is being filed in Canada on Dec. 12, 2002
<input checked="" type="checkbox"/> 9 YES (IF "YES" GIVE NAMES OF COUNTRIES AND DATES)		
<input checked="" type="checkbox"/> 9 NO		

AMERICAN
CARTAGE
CO.
DEC 16 1962
obtention de véhicules

15. HAS THE VARIETY BEEN SOLD IN CANADA?

YES (IF "YES" GIVE DATES)
 NO

16. IS AN EXEMPTION FROM COMPULSORY LICENSING REQUESTED?

YES (IF "YES" GIVE REASONS)
 NO

17. CHECK APPROPRIATE BOX FOR EACH ITEM SUBMITTED FOR FILING (SEE INSTRUCTIONS)

A. ORIGIN AND BREEDING HISTORY OF THE VARIETY
 B. STATEMENT OF UNIFORMITY AND STABILITY
 C. DISTINCTNESS STATEMENT
 D. SAMPLE OF PROPAGATING MATERIAL (WHERE APPLICABLE)
 E. METHODS FOR MAINTAINING THE VARIETY
 F. EVIDENCE ESTABLISHING THE LEGAL REPRESENTATIVE AS THE APPLICANT (WHERE APPLICABLE)
 G. AUTHORIZATION OF AN AGENT (WHERE APPLICABLE)

17. CHECK APPROPRIATE BOX FOR EACH ITEM SUBMITTED FOR EXAMINATION (SEE INSTRUCTIONS)

H. REQUEST FOR EXAMINATION
 I. OBJECTIVE DESCRIPTION FORM
 J. RESULTS FROM COMPARATIVE TESTS AND TRIALS
 K. COMPARATIVE PHOTOGRAPHS (PRINT AND SLIDE)

18. CHECK APPROPRIATE BOX FOR FEE SUBMISSION(S) (PAYABLE IN CANADIAN FUNDS ONLY; CHEQUES TO BE MADE PAYABLE TO, RECEIVER GENERAL FOR CANADA)

FILING FEE (\$250)
 EXAMINATION FEE (\$750)
 PROTECTIVE DIRECTION FEE (\$50)
 GRANT OF RIGHT FEE (\$500)
 CLAIMING PRIORITY FEE (\$50)
 OTHER _____

TO BE COMPLETED BY APPLICANTS/AGENTS REQUESTING A PROTECTIVE DIRECTION

(A PROTECTIVE DIRECTION FEE OF \$50 MUST BE ENCLOSED TO VALIDATE THIS SIGNATURE)

I/We request that a protective direction be given in respect of the plant variety covered by this application. I/We undertake while the protective direction is in force, that no propagating material of the plant variety will be sold in Canada by me/us, or with my/our consent, except as provided in subsection 19(2) of the Plant Breeders' Rights Act, in the period between the making of this application and the time when the Plant Breeders' Right is granted, or refused.

Signature of applicant _____ Date _____

TO BE COMPLETED BY ALL APPLICANTS/AGENTS

I/We am(are) the owner(s) or acting on behalf of the owner(s) of this novel plant variety, and believe that the variety is distinct, uniform and stable as required in subsection 4(2) of the Plant Breeders' Rights Act. I/We understand that test results must be carried out using acceptable scientific procedures. I/We certify that the sample of propagating material supplied (where applicable) is representative of the variety.

Making a false representation is an offence and may result in a loss of the Plant Breeders' Right and prosecution.

SIGNATURE(S)	CAPACITY OR TITLE	DATE
 Hiltrud Schnyder (please print name):	Managing director	Dec. 6, 2002

FOR OFFICIAL USE ONLY

PBRO APPLICATION NO.:	FILING OF APPLICATION:	DATE:	TIME: _____ a.m. _____ p.m.
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**APPENDIX VI
LEGAL REPRESENTATIVE STATEMENT / ASSIGNMENT BEFORE THE ISSUE OF
PLANT BREEDERS' RIGHTS**

The following letter may serve as a standard form to be completed prior to application as evidence establishing the applicant as the legal representative, or after application when an assignment of a new variety occurs prior to a grant of rights.

I,Angelika Utechtwhose full post office address is
.....Hinterer Rebstock 38
.....56410 Montabaur
.....Germany

in consideration of \$..... the receipt of which is hereby acknowledged, do hereby sell and assign, effective the1..... day of19.....,

toFlorfis AGwhose full post office address is
.....Parkstrasse 33.....
.....4102 Binningen.....
.....Switzerland.....

my interest in Canada for thePelargonium..... variety entitled'Fip 335'.....
(crop kind)(denomination and application no.)
As described and claimed in my application for Plant Breeders' Rights and to all my corresponding right, title and interest in and to any grant of rights which may issue therefor.

Signed atHillscheid..... Germany.....
(City or town)(Country)

this5th day ofNovember..... 19..... 2002

WitnessI. Wickel
I. Wickel

.....A. Utecht
A. Utecht (Signature of assignor)

Signed atBinningen..... Switzerland.....
(City or town)(Country)

this6th day ofDecember..... 19..... 2002

WitnessDr. M. Unkelbach
Dr. M. Unkelbach

.....H. Schnyder
H. Schnyder (Signature of assignee)

Plant Breeders' Rights
CANADA

DEC 19 2002

Protection des
obtentions végétales

AGRICULTURE AND AGRI-FOOD CANADA

PLANT BREEDERS' RIGHTS OFFICE

AUTHORIZATION OF AGENT

We hereby authorize:

Eric VOOGT
Westcan Greenhouses Ltd.
2527 - 210th Street,
Langley, British Columbia
V2Z 2A9

to sign any application, notice or other document
given, delivered to or served upon the Controller
in accordance with Plant Breeders' Rights Regulations
and to make all attendances upon the Controller
relating to the plant variety:

Pelargonium 'Fip 335'

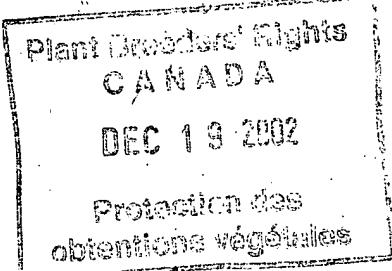
December 6, 2002

Date: Binningen,

Signature:

H. Schnyder

FLORFIS AG
Parkstrasse 33
4102 Binningen
Switzerland



GERANIUM Pelargonium zonale 'Fip 335'

17A) Origin and breeding history of the variety

'Fip 335' was derived from a hybridization made in 1996, and it was selected as one seedling within the offspring in 1997.

The female parent was the variety 'Fisbravo', application no. 95-676, grant no. 350, having pink, semi-double flowers with red eyes, dark green foliage with distinct zonation and about medium growth habit.

The male parent was the variety 'Gomera', with pink flower colour, reddish eyes on petals, and medium green foliage with slight zonation.

The hybridization was made in Hillscheid, Germany, and the first selection of the seedlings was conducted in Moncarapacho, Portugal. Cuttings from the selected seedling were then taken back to Hillscheid for further selection and for trial cultivation in 1998.

17 B and E) Statement of uniformity and stability Methods for maintaining the variety

Variety 'Fip 335' originated from a single seedling that was propagated asexually. It is a uniform clone, without genetical variation.

The stock plants in Hillscheid, Germany, and Cuernavaca, Mexico, had been obtained by tissue culture and were checked for health and stability of the described characteristics. They are used for propagation by cuttings (usually stem terminal cuttings).

17 C) Distinctness statement

The most similar varieties are 'Goesta' and 'Designer Light Pink'.

In comparison to 'Goesta', 'Fip 335' has deeper green foliage and somewhat more distinct zonation. Furthermore, plant habit is somewhat taller than that of 'Goesta'.

In comparison to 'Designer Light Pink', 'Fip 335' has a more variable light pink flower colour, and less vigorous growth habit.

